

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

HON. DAWN M. BERGIN

CLERK OF THE COURT  
B. Navarro  
Deputy

STATE OF ARIZONA

KRISTIN LARISH

v.

RONALD THERMAN-LAMAR ALEWINE (002) ULISES FERRAGUT JR.

**TRIAL MINUTE ENTRY**  
**DAY 25**

Prior to Trial continuing, State's Exhibits 103.002 and 833 are marked for identification.

10:43 a.m. Trial to a Jury continues from April 15, 2014.

State's Attorney:	Kristin Larish
Case Agent:	Sgt. John Thompson
Defendant's Attorney:	Ulises Ferragut, Jr.
Defendant:	Present
Court Reporter:	Rochelle Dobbins

The Jury is not present.

Defense counsel notes that the State marked new Exhibits (103.002 and 833) and seeks information on how the State intends to use the exhibits.

Sgt. Roderick Douglas is present and takes the witness stand.

*Voir dire* of the witness is conducted regarding the foundation for the inmate records marked as Exhibits.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

Counsel stipulate to the admission of Exhibits 103.001 and 105.001

Exhibits 103.001 and 105.001 are received in evidence.

The Court indicates that Exhibits 103 and 105 will not be received in evidence.

Counsel stipulate to the admission of Exhibit 103.002.

Exhibit 103.002 is received in evidence.

Court's Exhibit 834 is marked for identification and shall be retained for appellate purposes.

The State moves for the admission of Exhibit 833. Defense counsel objects.

For the reasons set forth on the record,

**IT IS ORDERED** overruling Defense counsel's objection and receiving Exhibit 833 into evidence.

11:09 a.m. The Jury is now present.

**Defendant's case continues:**

Sgt. Roderick Douglas resumes the stand and testifies further.

11:50 a.m. A bench conference is held between Court and counsel, on the record.

11:54 a.m. Sgt. Douglas' testimony resumes.

The Court receives 1 written juror question. Same is discussed with counsel on the record, but out of the hearing of the Jury.

A response to the juror question is given to the Jury through the questioning of the witness by the Court.

FILED (12:00 p.m.): Juror Question

The witness is excused.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

12:00 p.m. The Jury is excused and court remains in session.

Referencing his recently filed motion *in limine*, Defense counsel requests that the Court preclude the State from presenting a rebuttal case or order the State to provide a proffer of the evidence it will present in rebuttal. He also argues that such a proffer is necessary in order for the Defendant to make an informed decision about whether to testify.

Additional oral argument is presented on the Defendant's Motion *in Limine* to Preclude Rebuttal Testimony.

For the reasons set forth on the record,

**IT IS ORDERED** denying the Motion and denying the Defense request for an order requiring the State to make a proffer of the evidence it intends to present in rebuttal.

Defense counsel advises the Court that he has thoroughly discussed the prospect of testifying with his client and he has chosen not to testify.

Upon inquiry by the Court, the Defendant confirms that he does not wish to testify.

12:09 p.m. The court stands at recess.

1:22 p.m. Court reconvenes.

State's Attorney:	Kristin Larish
Case Agent:	Sgt. John Thompson
Defendant's Attorney:	Ulises Ferragut, Jr.
Defendant:	Present
Court Reporter:	Rochelle Dobbins

The Jury is present.

The Defense rests.

1:22 p.m. – 1:23 p.m. A bench conference is held between Court and counsel, on the record.

At the bench conference, Defense counsel orally moves for a Judgment of Acquittal under Rule 20.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

**IT IS ORDERED** denying the Rule 20 motion.

The State rests.

1:23 p.m. – 1:23 p.m. A bench conference is held between Court and counsel, on the record.

1:24 p.m. The Jury is excused until April 21, 2014 at 11:00 a.m. and court remains in session.

The Court has received Defendant's proposed third-party culpability instruction.

Oral argument is presented.

For the reasons set forth on the record,

**IT IS ORDERED** denying Defendant's request for a third-party culpability instruction.

Defense counsel requests the standard jury instruction on multiple acts.

Oral argument is presented.

For the reasons set forth on the record,

**IT IS ORDERED** denying Defendant's request for an instruction on multiple acts.

Discussion is held regarding post-verdict issues.

State's counsel will request verdict forms for findings of dangerousness and the presence of an accomplice for each count. She may also request that the Jury make a finding that the Defendant was on release at the time he committed the offenses. The Court instructs counsel for the State to advise the Court and the Defense by mid-day tomorrow if she intends to seek an enhancement due to the Defendant's release status.

The State argues that the Defense should not be permitted to argue in closing that: (1) the photos in evidence show that the Victim was carrying a cell phone and not a knife; and (2) Jonathan Smith stole the Victim's watch.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

Defense counsel indicates that because the Court has precluded the State from arguing that the knife found with the Defendant's belongings belonged to the Victim, he will not argue that the Victim may have been carrying a cell phone.

For the reasons set forth on the record, Defense counsel is permitted to argue in closing that Jonathan Smith stole the Victim's watch.

State's counsel objects to providing a copy of the PowerPoint she intends to present during closing argument. Defense counsel requests that State's counsel provide him with the Exhibit numbers of any photos that will be included in the PowerPoint. State's counsel agrees to do so.

The Court will not require the State to disclose its entire PowerPoint, but only the Exhibit numbers of the photos that will be included in the PowerPoint.

Discussion is held regarding scheduling.

1:57 p.m. The court stands at recess until **April 21, 2014 at 11:00 a.m.**

2:10 p.m. Court reconvenes at the request of State's counsel.

State's Attorney:	Kristin Larish
Case Agent:	Sgt. John Thompson
Defendant's Attorney:	Ulises Ferragut, Jr.
Defendant:	Presence waived
Court Reporter:	Rochelle Dobbins

Ms. Larish advises the Court that she requested that Ms. Ferragut (Mr. Ferragut's paralegal) provide her with the Exhibit numbers of the photos the Defense intends to show during closing argument. Ms. Ferragut responded that she would do so only after the State disclosed its numbers.

The Court admonishes Ms. Ferragut about the inappropriateness of this response and reiterates her expectation that counsel deal with each other in a professional manner.

**IT IS ORDERED** that both sides shall disclose the Exhibit numbers they will be using in closing arguments by **10:00 a.m. on April 21, 2014.**

2:14 p.m. Matter concludes.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2010-155663-002 DT

04/17/2014

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>.  
Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine  
their mandatory participation in eFiling through AZTurboCourt.